

HOUSE BILL REPORT

HB 1867

As Passed House:
March 1, 2011

Title: An act relating to clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates.

Brief Description: Clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates.

Sponsors: Representatives Kelley, Rivers, Kirby and Stanford.

Brief History:

Committee Activity:

Business & Financial Services: 2/15/11, 2/17/11 [DP].

Floor Activity:

Passed House: 3/1/11, 94-3.

Brief Summary of Bill

- Excludes prepaid telephone calling cards and prepaid commercial mobile radio services from requirements for gift certificates and gift cards.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 13 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Parker, Pedersen, Rivers, Ryu and Stanford.

Staff: Alison Hellberg (786-7152).

Background:

Gift Certificates and Gift Cards.

A "gift certificate" is defined as an instrument evidencing a promise by the seller that consumer goods or services will be provided to the bearer of the record to the value or credit shown in the record. A "gift card" is a gift certificate in the form of a card, or a stored value

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card or other physical medium, containing stored value primarily intended to be exchanged for consumer goods and services.

In general, it is unlawful for any person to issue a gift certificate that contains an expiration date or fee, including gift certificates that are issued along with a retail sale. There are several exceptions to this prohibition, as long as the expiration date is clearly legible on the certificate. If there is a balance on a gift certificate, then that balance must be made available as cash or a gift certificate at the option of the retailer.

Gift cards may contain inactivity fees under certain circumstances. A fee is allowed if several conditions are met: a statement is printed in at least six-point font with the amount of fee, frequency, and an explanation that the fee is triggered by inactivity; the statement is visible prior to purchase; the remaining value on the card is \$5 or less; the fee does not exceed \$1 per month; there has been no activity for 24-consecutive months; and the holder is allowed to reload the card.

Gift certificates must be honored prior to bankruptcy proceedings. Gift certificates may not be redeemed for cash unless the remaining value is \$5 or less. Issuers are not required to replace gift certificates if stolen, pay interest on unredeemed balances, or maintain separate accounts to cover the value of gift certificates.

Commercial Mobile Radio Services.

The Federal Communications Commission (FCC) has adopted regulations regarding requirements and conditions applicable to commercial mobile radio service providers. The regulations include a definition for "mobile service." This is a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves. A "commercial mobile radio service" is a mobile service that is provided for profit, is an interconnected service, and available to the public.

Summary of Bill:

The definitions of "gift certificate" and "gift card" do not include prepaid telephone calling cards or prepaid commercial mobile radio services. Requirements related to gift certificates and gift cards do not apply to prepaid telephone calling cards or prepaid commercial mobile radio services.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill clarifies existing law that prepaid telephone calling cards and prepaid commercial mobile radio services are not covered under the gift certificate laws. The Legislature never intended to include prepaid calling services under this law. It was meant to

include restaurants and retail gift cards. Consumers recognize that prepaid wireless services are available for a fixed period of time and do expire. This is different from a gift card. This is more like a ticket for a movie or event. This bill also recognizes the trends in other states that have excluded these gift cards from requirements related to gift certificates.

(Opposed) None.

Persons Testifying: Representative Kelley, prime sponsor; and Scott Hazlegrove, TracFone.

Persons Signed In To Testify But Not Testifying: None.